



October 21, 2014

Lois Johnson, General Counsel
Health Policy Commission
Two Boylston Street, 6th Floor
Boston, MA 02116

re: Proposed Regulations: 958 CMR 7.00 Notices of Material Change and Cost and Market Impact Reviews

Dear Ms. Johnson:

On behalf of the Massachusetts Association of Health Plans (MAHP), which represents 17 health plans that provide coverage to more than 2.6 million Massachusetts residents, we are writing to offer comments regarding the Health Policy Commission's proposed regulations on the Notices of Material Change and Cost and Market Impact Reviews (958 CMR 7.00). We appreciate the complexities involved in developing these regulations and commend the Commission for the significant steps taken to date to implement Chapter 224 of the Acts of 2012 (Chapter 224), as well as your inclusiveness in seeking feedback from stakeholders in your efforts to fulfill the law's goals.

Our member health plans continually set the standard for the rest of the country for clinical quality and member satisfaction with innovative programs designed to improve quality and coordinate care, integrating medical care, behavioral health and substance abuse services, and pharmacy benefits to meet the specific needs of their members. In its recent annual report ranking the clinical quality and member satisfaction of health plans, the National Committee for Quality Assurance's (NCQA) Insurance Plan Rankings 2014-2015 recognized the high performance of the Commonwealth's health plans as Massachusetts was again home to the nation's best commercial health plans, including the top HMO and PPO plans, as well as the country's top four (4) Medicaid health plans.

In addition to their commitment to quality, our member health plans have been committed to lowering health care costs as demonstrated in the Center for Health Information and Analysis' recent *2014 Annual Report on the Performance of the Massachusetts Health Care System*. As the Center's report showed, our member health plans' annual increases from 2012-2013 were well below the Commonwealth's 3.6 percent health care cost growth benchmark and our member health plans have made significant strides to contain health care costs for employers and consumers.

The provisions included under 958 CMR 7.00 are an important step in facilitating greater transparency in the health care market. The standards for examining material changes and conducting cost and market impact reviews are essential to ensure transparency around the significant changes taking place in the delivery system. Having a strong mechanism in place for entities to report on and for the Commission to evaluate changes taking place in the market is essential to understanding the impact of those changes on the delivery of health care and what impact they may have on employers and consumers.

The changes taking place today will reshape the health care system for years to come. Some have suggested that the wave of mergers, acquisitions and clinical affiliations among hospitals, physicians and other providers is necessary and will result in better integration and improved quality for patients. However, empirical evidence has shown that provider consolidations lead to higher prices and provider mergers and acquisitions have the potential to increase prices for Massachusetts employers and consumers. Therefore, it is important to have a mechanism in place to measure and monitor these changes, particularly where such changes may reduce access to lower-cost options for consumers and undermine efforts to promote value-based decisions by purchasers.

Given these issues, we believe that the Commission has taken a balanced approach in the level of information it will require in the proposed standards for material changes and market impact reviews. In particular, we believe that the definitions concerning "Materially Higher Prices" and "Materially Higher Health Status Adjusted TME," establish an appropriate set of standards in considering market impact reviews. Similarly, while the definition of "Dominant Market Share" establishes a balanced standard, we would encourage the Commission to consider including the following additional factors:

- Revenues and expenses for inpatient services;
- Revenues and expenses for outpatient services;
- Revenues and expenses for professional services;
- All revenue and expenses from nonpatient operations;
- All medical education revenue and expenses;
- All research revenue and expenses;
- Reserve levels; and
- Investment income.

This would provide a more comprehensive and robust data set for the Commission to utilize in determining whether to proceed with a cost and market impact review.

We would also urge the Commission to consider additional detail in the factors to be considered in a cost and market impact review (958 CMR 7.06). In reviewing the potential impact of a material change, the Commission's regulations should consider the following elements:

- Whether the provider is geographically isolated or is the dominant provider in a particular region;
- Whether the provider serves a disproportionately large portion of employers in the region;
- What tertiary or specialty services are available at the provider's main site and would those same services be available from other providers in the network;

Additionally, in 958 CMR 7.02, the definition of "Material Change" should be amended to reflect other substantial changes to ensure that the Commission has the most up-to-date information and is aware of changes taking place in the delivery system that may affect patients' access to care. To that end, the Commission should include the following:

- The construction or development of a new facility, offering of new services, or the establishment of a new practice area in the provider's primary geographic region. While the Public Health Council is responsible for reviewing substantial capital expenditures or substantial change in services as part of the Determination of Need (DoN) process, that review does not take into account what impact they have on the statewide cost benchmark. Further, new constructions or service expansions may not meet the DoN expenditure minimum, but could have an impact on the state's ability to achieve the cost benchmark, making it important for providers to notify the Commission of these changes.
- The construction or development of a new facility, offering of new services, or the establishment of a new practice area in an area that is not the provider's primary location. Expansions into new geographic regions could have an effect on existing referral patterns, contract prices or changes in volume from lower-cost providers, which could have an impact on the state's ability to achieve the cost benchmark. It would be important for providers to notify the Commission of these changes.
- Elimination, discontinuation or closure of services. Again, while there are other state entities that examine these issues in the context of access, the Commission should be notified when such changes occur so that it might determine what impact, if any, such changes may have on the access to and the price of care, as well as the state's ability to achieve the cost benchmark.

Finally, with regard to information requests to other market participants (958 CMR 7.08), we would urge that wherever possible that the Commission utilize information from the all-payer claims database (APCD) so that the health plans are not duplicating reporting efforts. Our member health plans have been committed to working with the Center for Health Information and Analysis to fulfill the APCD's potential. The APCD presents a valuable resource to understanding cost drivers and evaluating cost-containment strategies and offers an opportunity to promote administrative simplification in reporting to state agencies.

Thank you for the opportunity to offer comments on the proposed regulations. If you or your staff have any questions or require any additional information, please do not hesitate to contact me at 617-338-224 x102.

Sincerely,



Eric Linzer
Senior Vice President, Public Affairs & Operations

cc: David Seltz, Executive Director, Health Policy Commission